

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ROBERT H. BURCH, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

vs.

SLM CORPORATION, ALBERT L. LORD,
CHARLES ELLIOTT (C.E.) ANDREWS and
ROBERT S. AUTOR,

Defendants.

RUSSELL PATRICK, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

vs.

SLM CORPORATION, ALBERT L. LORD,
CHARLES ELLIOTT (C.E.) ANDREWS and
ROBERT S. AUTOR,

Defendants.

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Case No. 1:08-CV-01029-WHP

Case No. 1:08-CV-02463-WHP

**DECLARATION OF AARON M. SHEANIN IN SUPPORT
OF THE RESPONSE OF SLM VENTURE TO THE DECLARATION OF ARTHUR N.
ABBEY IN RESPONSE TO THE JUNE 30, 2008 ORDER**

I, Aaron M. Sheanin, under penalty of perjury, hereby declare:

1. I am a partner of Girard Gibbs LLP and am admitted to practice *pro hac vice* in this action. I submit this declaration in support of the Response of SLM Venture to the Declaration of Arthur N. Abbey in Response to the June 30, 2008 Order.

2. Attached hereto as Exhibit A is a true and correct copy of a document found on the website of MSS Capital Limited (<http://www.msscapiatal.com/hedge.aspx>), printed on July 14, 2008.

3. Attached hereto as Exhibit B is a true and correct copy of a publicly available document entitled, "Rules for the Management of FTSE Hedge" (http://www.ftse.com/Indices/FTSE_Hedge/Downloads/hedge_english_indexrules.pdf), printed on July 14, 2008.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 14th day of July, 2008 at San Francisco, California.

/s/ Aaron M. Sheanin

Aaron M. Sheanin

CERTIFICATE OF SERVICE

I, Aaron M. Sheanin, hereby certify that on July 14, 2008, I caused the following document(s) to be filed electronically with the United States District Court for the Southern District of New York through the Court's mandated ECF service:

1. **DECLARATION OF AARON M. SHEANIN IN SUPPORT OF THE RESPONSE OF SLM VENTURE TO THE DECLARATION OF ARTHUR N. ABBEY IN RESPONSE TO THE JUNE 30, 2008 ORDER**

Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the document(s) upon confirmation of e-filing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of July, 2008 at San Francisco, California.

/s/ Aaron M. Sheanin

EXHIBIT A

sign in pas[register](#) | [em](#)[Home](#) [Hedge Funds](#) [Contact](#)

Hedge Funds

MSS advises the FTSEhx Fund which perfectly tracks the FTSE Hedge index series. This is an investable index representing a portfolio of diversified, globally based Hedge Funds which pursue a variety of investment strategies and styles.

Daily values can be found in the Financial Times, Bloomberg and via other market data providers - [list of vendor codes \(pdf\)](#).

The FTSEhx Fund = FTSE Hedge Index and so with no tracking variance is very suited to Structured Product providers. This is all achieved through leveraging our own independent Managed Account platform, HIP.

The ISE listed FTSEhx Fund SPC was launched in April 2004 and offers subscriptions in a number of currencies including GBP, USD, JPY and EUR.



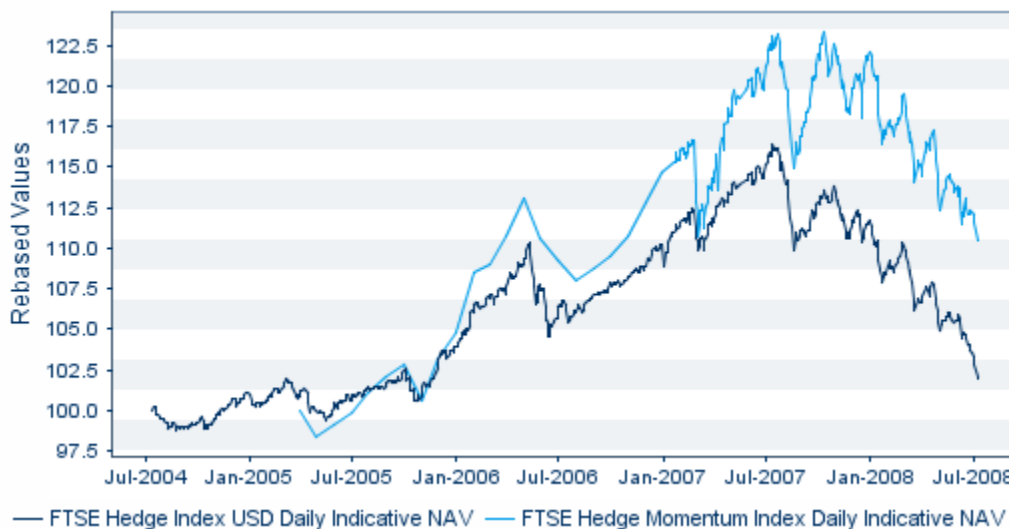
FTSE Hedge

MSS and FTSE

MSS is the exclusive advisor and manager of the FTSEhx Fund SPC which invests in the constituents of the FTSE Hedge index as determined by FTSE International and the [FTSE Ground Rules](#). Hedge Fund managers and advisors undergo rigorous initial and ongoing due diligence, and MSS daily monitors the fully transparent hedge funds using GARAS, its proprietary risk management system.

FTSE Indices

FTSE Hedge Index (USD Global / Momentum)



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EXHIBIT B



RULES FOR THE MANAGEMENT OF FTSE HEDGE

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SECTION 1

1.0 INDEX OBJECTIVE AND DESIGN

1.1 The objective of the FTSE Hedge is to produce a series of indices that represent the risk and return of investable hedge fund investment across a number of recognised hedge fund strategies. This paper sets out the rules for the Management of FTSE Hedge by FTSE.

1.2 The index aims to provide both a daily indicative measure and monthly official performance of the universe of open, investable hedge funds, appropriately diversified by Trading Strategy and Management Style.

1.3 FTSE Hedge comprises the following indices:-

FTSE Hedge Index

The above index is comprised of the following three indices representing specific Management Styles:-

FTSE Hedge Directional Index

FTSE Hedge Non-Directional Index

FTSE Hedge Event Driven Index

These three Management Style indices in turn contain various Trading Strategy indices (see Appendix A).

1.4 The base currency for the FTSE Hedge Index is US Dollars. The FTSE Hedge Index is also produced in GBP, Euro, Yen and CHF by use of one month forward rates.

1.5 For each individual index two indices will be calculated:

1.5.1 Gross Asset Value Index (GAV)

The GAV index is calculated using the returns from the constituent hedge funds within the index before any costs related to any fund of fund structure are taken in to account.

1.5.2 Net Asset Value Index (NAV)

The NAV index uses the same data as the GAV index but is also adjusted for the full running costs related to the fund of fund structure. Such costs will include, inter alia, prime brokerage expenses, all management and performance fees, administration and custody fees.

1.5.3 The data on which the calculations are based is independently valued by DPM (the "Administrator") and MSS Capital (the "Platform Manager").

SECTION 2

2.0 INDEX MANAGEMENT

- 2.1 FTSE Hedge is managed by the FTSE Hedge Fund Advisory Group whose members comprise an independent group who are authoritative individuals from the global hedge fund community.
- 2.1.2 The FTSE Hedge Fund Advisory Group is responsible for maintaining and evolving the rules for the management of FTSE Hedge.
- 2.1.3 The FTSE Hedge Fund Advisory Group ensures that a consistent approach is applied to the selection of the constituent hedge funds and their addition and deletion from the index series.
- 2.1.4 Funds will be added to the index if they have satisfied all the index qualification criteria (see sections 4 and 5 below) and receive final approval by the FTSE Hedge Fund Advisory Group. Normally hedge funds will only be added at the annual review, but may be added more frequently in response to changing market conditions, for example to replace a deleted hedge fund.
- 2.1.5 Constituent hedge funds can be deleted for failing to continue to satisfy the index qualification criteria and at the final decision of the FTSE Hedge Fund Advisory Group (see sections 4 and 5 below). Normally hedge funds will only be deleted at the annual review but may be removed more frequently in response to fund specific events (e.g. major valuation concerns, excessive redemptions, significant managerial changes, or other due diligence issues.)
- 2.2 The FTSE Hedge Fund Advisory Group will meet at the annual review in March each year and more frequently if required.
- 2.2.1 At no time shall a decision by the FTSE Hedge Fund Advisory Group to add or delete a constituent hedge fund be taken as a buy or sell recommendation for that fund.

SECTION 3

3.0 HEDGE FUND UNIVERSE AND CLASSIFICATION

- 3.1 Each constituent hedge fund will be chosen from the FTSE Hedge Fund Database after applying the index qualification criteria (see section 4). The FTSE Hedge Fund Database comprises data from commercially available databases, prime brokers, Harcourt Investment Consulting (the "Due Diligence Consultant") and direct from hedge fund managers themselves.
- 3.2 The FTSE Hedge Index only recognises the Trading Strategies and Management Styles listed in Appendix A.
- 3.3 Each hedge fund in the FTSE Hedge Fund Database is allocated to its appropriate Trading Strategy on the basis of the information contained within the database.
- 3.4 Hedge funds are then ranked within their allocated Trading Strategy by statistical methods according to how well they represent the risk and return characteristics of each complete strategy through time. The higher the rank the more representative the fund is of that Trading Strategy. By discarding the lowest ranked hedge funds, unrepresentative hedge funds are removed from the Trading Strategy. Subsequent selection criteria will therefore only consider the most representative funds (see Section 4.0).

SECTION 4

4.0 INDEX QUALIFICATION CRITERIA

Individual hedge funds are potentially eligible for inclusion in FTSE Hedge provided they are included in the FTSE Hedge Fund Database, and subsequently meet the eligibility criteria. After all hedge funds in the FTSE Hedge Fund Database are allocated to their appropriate Trading Strategy (see Section 3) the following procedure is used to select the constituent hedge funds of FTSE Hedge.

4.1 Initial Screening

4.1.1 In order to be eligible, constituent hedge funds must first qualify as follows:-

- a) Each eligible hedge fund must have at least a two year unbroken investment track record at the time that data is collected for the annual review.
- b) Each eligible hedge fund must have monthly reporting with a minimum of monthly liquidity and have independently audited financial statements.
- c) Each eligible hedge fund must have a minimum of US\$50 million of unleveraged assets under management.
- d) Each eligible hedge fund must be open and accepting subscriptions as well as having significant remaining investment capacity.

In addition it is preferable, though not compulsory, that eligible hedge funds should be listed on a recognised stock exchange and /or have a management company that is regulated by a recognised regulatory body.

4.2 Selection of Eligible Hedge Funds

Following initial screening (see rule 4.1) the remaining eligible hedge funds are analysed as follows:-

- 4.2.1 Each eligible hedge fund's investability weight is defined as being the lower of that hedge fund's remaining capacity or a predetermined maximum percentage of its current total assets under management.
- 4.2.2 Hedge funds that have been determined to be representative of their strategies, are then ranked by investability (see rule 4.2.1). For each Trading Strategy, the highest ranked hedge funds are deemed eligible hedge funds for index construction purposes.
- 4.2.3 Constituent hedge funds can only be drawn from the eligible hedge funds of rule 4.2.2. and in addition subject to meeting the satisfactory due diligence requirements of rule 4.3 below and meeting the valuation and reporting requirements of section 5.2.
- 4.2.4 The total number of constituent hedge funds for each Strategy index is set at the time of the annual review and will usually only change at the next annual review. The minimum number of hedge funds in a particular strategy at any one time will be three. However, the total number of hedge funds may vary between annual reviews (see Section 5).

SECTION 4

4.3 Due Diligence

- 4.3.1 Due diligence is a critical component of investing in hedge funds. For the FTSE Hedge Index it comprises a full scale annual due diligence audit, regular manager checks and daily risk monitoring and management. Constituent hedge funds are therefore subject to a continuous requirement to satisfy the due diligence requirements of the index. Having quantitatively established that a constituent hedge fund is representative of its Trading Strategy (rules 4.1 and 4.2) the purpose of due diligence is to qualitatively monitor that it continues to remain so.
- 4.3.2 Full scale due diligence audits form an integral part of the index recomposition procedure (see sections 2 and 5) and are conducted by Harcourt Investment Consulting AG (the "Consultant"), an independent firm of investment consultants. They are conducted only on eligible hedge funds (see rule 4.2.4) and comprise:-
- 4.3.3 Basic due diligence is to ensure that the management company and hedge fund exist as represented. The following specific checks are carried out in this regard, namely the existence and conformity of:
- Fund incorporation documents
 - Fund listing particulars
 - Any supplementary fund information
 - Administrator checks
 - Prime broker checks
 - Management company audited financial statements
 - Manager reference checks
- 4.3.4 Qualitative due diligence covers the administering of questionnaires, follow up telephone interviews and site visits to ascertain satisfactory evidence and analysis of:
- Manager quality
 - Investment process
 - Operations structure
 - Risk management and changes to procedures
 - Style purity/style drift
 - Investment capacity analysis
 - Specific transparency obligations of the fund
- 4.3.5 Regular hedge fund manager checks are an integral part of the index management (see section 2) and are jointly conducted by the Consultant and the Platform Manager. For each manager of the underlying constituent hedge fund, such regular checks will focus on large changes in assets under management, key personnel changes, legal and regulatory issues arising, any significant style drift.
- 4.3.6 Daily risk monitoring and management is an integral part of index management (see section 2) and is conducted by the Platform Manager for each constituent hedge fund. Such monitoring focuses on breaking news, portfolio risk, position risk analysis, breaches of individual hedge fund investment restrictions and guidelines (see rule 5.2.3).

SECTION 5

5.0 Index calculation and maintenance

5.1 Weighting

- 5.1.1 Constituent hedge funds target weights are in proportion to their investability within their respective Trading Strategy indices. These weights are equal to a constituent hedge fund's investability (see rule 4.2.1) divided by its relevant Trading Strategy's investability (see rule 5.1.2), subject always to the requirement that no single constituent can represent more than 40% of its Trading Strategy.
- 5.1.2 The investability of a Trading Strategy is simply the sum of the investability weights of all eligible hedge funds for that Trading Strategy which have passed the initial screening (see rule 4.1). Trading strategies are then weighted in proportion to their investability within their respective Management Styles, subject always to the requirement that no single Trading Strategy can represent more than 30% of the headline FTSE Hedge Index.
- 5.1.3 The investability of a Management Style index within the FTSE Hedge Index is simply the sum of all the constituent Trading Strategy investabilities within that Management Style. Management Styles are thus weighted in proportion to their investability within the FTSE Hedge Index composite.
- 5.1.4 The actual weights of the constituent hedge funds within the index are those weightings achieved by the Platform Manager. The Platform Manager will take all necessary steps to ensure that the weights of each constituent hedge fund shall match the target weights generated by this process.

5.2 Valuation and Reporting

- 5.2.1 Each constituent hedge fund in the index is represented either by the constituent hedge fund itself or by a managed account that is benchmarked to that hedge fund.
- 5.2.2 Each managed account has all its underlying positions independently valued by the independent third party Administrator. The Platform Manager maintains all the managed accounts in the FTSE Hedge Index.
- 5.2.3 The daily asset values from each constituent hedge fund are transmitted by the Administrator and the Platform Manager to FTSE for final checks and monitoring.
- 5.2.4 FTSE publishes the indicative daily values of the FTSE Hedge Index (Global composite, Management Style and Trading Strategy) three business days in arrears.

5.3 Annual Review Of Constituent Hedge Funds

- 5.3.1 FTSE Hedge is reviewed annually in the first week of March based upon data available as at the last business day in December of the previous year from the FTSE Hedge Fund Database.
- 5.3.2 Changes arising from the annual review will be implemented after the close of business on the last business day in April.

SECTION 5

5.3.3 The number of constituent hedge funds may be varied through time following advice from the FTSE Hedge Fund Advisory Group (see section 2) so as to ensure that the index, at all times, continues to offer investors a broadly diversified and representative measure of the index objective.

5.3.4 All decisions at the time of the annual review by FTSE following advice from the FTSE Hedge Fund Advisory Group in varying the composition of the index will be made public before the agreed changes are applied to the index.

5.4 Changes To Constituent Hedge Funds

5.4.1 Annual Review - Removal of Constituent Hedge Funds

A constituent hedge fund will be removed if at the annual review it has become closed to new investment, fails to be representative of its strategy, fails to pass its due diligence review or generally ceases to qualify for index inclusion (see section 4). The removal of a constituent hedge fund is carried out in accordance with these rules.

5.4.2 Occasional Removal of Constituent Hedge Funds

A constituent hedge fund may be removed from the index at any time if it is in breach of any of the index qualification rules outlined in section 4 and following agreement by the FTSE Hedge Fund Advisory Group.

5.4.3 Annual Review - Addition of Hedge Funds

Hedge funds will normally become eligible for inclusion in the index at the annual review. Hedge funds can be added to FTSE Hedge in line with the index rules. It is not necessary for an existing constituent hedge fund to be removed in order for a newly eligible constituent hedge fund to be added.

5.4.4 Occasional Addition of Hedge Funds

If a constituent hedge fund is removed from FTSE Hedge (see rule 5.4.2) the a replacement hedge fund for that strategy will become eligible for inclusion and may be added to the index, subject to the final approval of the FTSE Hedge Fund Advisory Group.

Hedge funds can also be added to FTSE Hedge in order to ensure that the index, at all times, continues to offer investors a broadly diversified and representative measure of the index objective. Any such changes will be agreed by the FTSE Hedge Funds Advisory Group and publicly announced.

5.4.5 Timing of changes

Outside of the annual review (see rule 5.3), all other changes to constituents of the index will be implemented as soon as is practical.

APPENDIX A

FTSE HEDGE CLASSIFICATION SYSTEM

The FTSE Hedge Index comprises of:-

Management Style Indices

FTSE Hedge Directional Index

FTSE Hedge Non-Directional Index

FTSE Hedge Event Driven Index

Trading Strategy Indices

Equity Hedge
CTA/Managed Futures
Global Macro

Equity Arbitrage
Fixed Income Arbitrage
Convertible Arbitrage

Merger Arbitrage
Distressed & Opportunities

The Trading Strategies defined:

Equity Hedge

These hedge funds consist of a core holding of long equities hedged at all times with tactical short sales of stocks and/or stock index options. Some managers maintain a substantial portion of assets within a hedged structure and commonly employ leverage. In addition to equities, some hedge funds may have limited assets invested in other types of securities.

This strategy also includes the sub-strategy of emerging markets. These funds invest in securities of companies or the sovereign debt of developing or "emerging" countries. Investments are primarily long but may include short sales of e.g. US Government Securities for hedging purposes. "Emerging Markets" are determined by reference to the FTSE Global Equity Index Series.

CTA/Managed Futures

Managed futures funds take long and short positions in liquid financial futures such as currencies, interest rates, stock market indices and commodities. Managed futures programs typically base their investment decisions on strict quantitative models, notably trend following.

Global Macro

Global Macro involves investing by making leveraged investments (frequently via exchange traded and/ or OTC derivatives) on anticipated price movements of stock markets, fixed interest securities, interest rates, foreign exchange and commodities. Macro managers employ a "top-down" global approach forecasting shifts in world economies, political fortunes or global supply and demand for resources, both physical and financial, and may invest in any markets using any instruments to participate in expected market movements. Macroeconomic fundamental factors are typically combined with technical analysis to make trading decisions.

APPENDIX A

Equity Arbitrage

Equity Arbitrage exploits pricing inefficiencies between related equity securities, neutralizing exposure to market risk by combining long and short positions. Portfolios are typically structured to be broadly neutral with respect to market, industry, sector, capitalisation and gross invested exposures.

This strategy also includes a number of sub strategies:-

Statistical Arbitrage managers utilize quantitative models and pattern recognition techniques to exploit short term pricing inefficiencies between related equity securities. The objective is most often to accumulate a large number of small size profitable trades.

Quantitative Equity Market Neutral managers utilize quantitative models aiming at exploiting long-term behavioural biases within the equity market place. Most funds hold widely diversified portfolios and are neutral across a range of parameters.

Fundamental Equity Market Neutral managers employ discretionary techniques within tight market neutral constraints such as to concentrate on alpha creation and hedge out beta exposure.

Fixed Income Relative Value

Fixed Income Relative Value is a market neutral strategy that seeks to generate returns by exploiting pricing inefficiencies between related fixed income securities while neutralizing or hedging undesired exposures such as interest rate, credit or prepayment risk.

The strategy includes a number of sub-strategies:

Diversified hedge funds may invest in a variety of fixed income strategies. While many invest in multiple strategies, others may focus on a single strategy less followed by most fixed income hedge funds.

Relative value credit managers invest in the full spectrum of credit sensitive corporate debt. Objectives may range from high current income to acquisition of undervalued instruments. Emphasis is placed on assessing credit risk of the issuer versus market levels.

Fixed Income Arbitrage and Mortgage-Backed funds invest in sovereign or quasi sovereign securities of the highest quality. Most funds focus solely on AAA-rated bonds.

Convertible Bond Arbitrage

Convertible Arbitrage involves purchasing a portfolio of convertible securities, generally convertible bonds, and hedging a portion of the equity risk by selling short the underlying common stock. This strategy may also take credit and interest rate exposures.

Merger Arbitrage

Merger Arbitrage involves investment in event-driven situations such as leveraged buy-outs, mergers and hostile takeovers and related transactions. These strategies generate returns by purchasing stock of the company being acquired, and in some instances, selling short the stock of the acquiring company. Managers may employ the use of equity options as a low-risk alternative to the outright purchase or sale of common stock.

APPENDIX A

Distressed and Opportunities

Distressed and Opportunities strategy invests in distressed securities and in opportunities created by events such as mergers, bankruptcy, and recapitalizations. Distressed situation may involve reorganizations, bankruptcies, distressed sales and other corporate restructurings. The portfolio of some opportunity managers may shift in majority weighting between risk arbitrage and distressed securities while others may take a broader scope. Managers may invest in both equity and debt.

APPENDIX B

HOURS OF CALCULATION

The indices will be calculated on a daily basis based upon valuations following the close of markets in the United States and independent clarification of these valuations by the fund Administrator.

For the last business day of each calendar month the index calculations will use final valuations from the constituent hedge funds themselves.

A business day is defined as a normal weekday when sufficient global markets are open and trading such that constituent hedge funds are able to trade, and their prime brokers and the fund administrator are able to provide reasonable marked to market asset prices.

PRICING

Index Algorithm

Gross Asset Value Calculation

The Index level at time t is given by:

$$I_t = I_{t-1} \left(\frac{\sum_i N_i^t}{\sum_i N_i^{t-1}} \right)$$

Net Asset Value Calculation

The Index level at time t is given by:

$$I_t = I_{t-1} \left(\frac{\sum_i N_i^t - c_t}{\sum_i N_i^{t-1}} \right)$$

I_t is the index level at time t

N_i^t is the NAV per share of Hedge Fund "i" at time t

c_t is the costs of investing incurred between t-1 and t

APPENDIX B

Constituent Asset Valuations

Estimated Index Values

FTSE receives net asset values and gross asset values each day from the administrator and the Platform Manager of the FTSEHx Fund SPC. These asset values are estimates fundamentally based on the value of the FTSE Hedge Index constituent hedge funds calculated by the Administrator to give an independent fair reflection of the asset values of the constituent hedge funds based on information supplied by each managed account and its prime broker.

Each day two indices are calculated by FTSE for the global composite Management Styles and Trading Strategies. The first is based upon gross asset value (GAV) of the fund of fund platform i.e. the weighted net asset values of the constituent hedge funds (the GAV index).

Secondly, a calculation based upon the net asset values (NAV) of the fund of fund platform i.e. the weighted net asset values of the constituent hedge funds less costs associated with running the fund if fund platform (the NAV index). These two indices are published each day by FTSE, usually with a three business day lag.

It is a prerequisite of each constituent hedge fund in the FTSE Hedge Index that they provide the Administrator sufficient information in order for the Administrator to calculate daily gross and net asset values. Failure of a constituent hedge fund to provide this information will deem the fund ineligible for inclusion in the Index Series.

Official Index Values

At the end of each calendar month FTSE will receive final gross and net asset valuations for the constituent hedge funds. Upon receiving all of these final valuations from the Administrator FTSE will calculate official end of month index levels for each index and these will then be published by FTSE as soon as is practically possible. The complexities of final valuation are such that from time to time the official month end index levels may differ, perhaps significantly, from their previous estimated values.

It is a prerequisite of each constituent hedge fund in the index that they provide the Administrator sufficient information in order for the Administrator to calculate monthly final valuations of gross and net asset values. Failure of a constituent hedge fund to provide this information will deem the fund ineligible for inclusion in the index.

FOREIGN EXCHANGE RATES

The US Dollar is the base currency for all index calculations.

Index values for the FTSE Hedge Index will also be produced in Euro, GBP and Yen.

APPENDIX C

FURTHER INFORMATION ON THE FTSE HEDGE INDEX SERIES

Further information on FTSE Hedge is available from FTSE, who will also welcome comments on these Rules and on the Index Series.

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